Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109

To: The Commission

COMMENTS OF T-MOBILE USA, INC.

Kathleen O'Brien Ham
Dave Conn
Luisa L. Lancetti
Indra Sehdev Chalk

T-Mobile USA, Inc.
401 Ninth Street, NW
Washington, DC 20004
(202) 654-5900

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T-Mobile USA, Inc. ("T-Mobile") submits the following comments regarding the Commission's notice proposing comprehensive revisions to the universal service system for rural and high-cost areas and the intercarrier compensation regime ("NPRM").[1] The Commission and the telecommunications industry are in full agreement that the existing high-cost universal service fund ("USF") and intercarrier compensation ("ICC") system are broken and unsustainable in the wake of the Internet Protocol ("IP") communications transformation that is

[1] *Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing a Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13 (rel. Feb. 9, 2011) ("NPRM").

sweeping aside the traditional circuit-switched public switched telephone network ("PSTN").[2] Effective USF and ICC reforms must accommodate the emerging IP network and facilitate the widespread deployment of broadband services.

INTRODUCTION AND SUMMARY

T-Mobile supports reform of the universal service and ICC systems to update them for today's mobile and broadband world. Because the existing ICC regime hinders the necessary transformation of the PSTN into an all-IP network, an IP interconnection transition plan must go hand in hand with ICC reform. T-Mobile accordingly sets forth below an IP transition proposal and an ICC reform transition plan, which are mutually reinforcing. Both transition plans are intended to operate in tandem with T-Mobile's proposed universal service reform plan, also set forth below, to help bring about universal broadband service.

Modification and improvement of the USF high-cost support mechanisms is long overdue. The existing high-cost USF must be transformed into a competitively and technologically neutral program that supports the deployment of mobile broadband and voice services.

The goals and principles of universal service should reflect its mission. Advancing the deployment of mobile voice and broadband networks should be a specific priority, and competitive and technological neutrality should be guiding principles of reform. Further, there should be uniform requirements for federal support recipients, and vague and varying state carrier of last resort ("COLR") requirements should not be imported into them.

[2] Because Internet Protocol communications constitute the most recognized form of packetized communications, T-Mobile uses "IP" to refer to all packetized communications.

The Commission's near-term proposals to reform existing high-cost support for incumbent local exchange carriers ("ILECs") are a good start, but they do not go far enough. The Commission should eliminate rate-of-return ("ROR") regulation. At minimum, as part of a transition, T-Mobile supports the Commission's proposals to increase efficiency and encourage efficient consolidation of rural carriers. Moreover, existing competitive eligible telecommunications carrier ("CETC") support should be phased down in a prudent and technologically-neutral manner. The near-term Connect America Fund ("CAF") and the long-term CAF should support mobility and broadband explicitly, and, in no event should any ILEC receive a right of first refusal to be the long-term CAF recipient in its service territory.

The Commission's reform efforts should also facilitate an orderly transition to IP networks. The transition to IP networks is inexorable, and the Commission should approach ICC reform with a view toward removing barriers in order to speed change.

The Commission should promulgate IP interconnection rules addressing the structure, terms, and conditions of IP traffic exchanges. Carriers should be prohibited from imposing inefficient transport costs and unnecessary interconnection requirements. The thousands of costly, inefficient interconnection points on the PSTN should be replaced by no more than 30 IP interconnection points, to be defined by the recently formed Technical Advisory Council ("TAC"), to establish exchange points for Voice over Internet Protocol ("VoIP") traffic.[3] The Commission also should transition the largest carriers to the new IP interconnection regime within a two- to three-year period, with all other carriers following over a longer time frame.

Reduction of all ICC rates to bill-and-keep will best facilitate the efficient transition to IP networks. Wireless carriers operate under a bill-and-keep regime, and their customers benefit

[3] *See* Part IV.C, *infra*.

from lower rates and new and innovative services as a result. Bill-and-keep is also consistent with principles of cost-causation. Notably, each of the three largest ILECs supports an ICC rate reduction transition to a low unified rate or to bill-and-keep. These carriers and all competitive carriers operating in their service areas should transition to bill-and-keep in four years. (In all cases, the proposed transition rates could be superseded by private agreements.) A more modest transition may be required, at least initially, for all other ILECs and the competitors operating in their service areas. Caps on subscriber line charges ("SLCs") should be lifted to permit ILECs greater flexibility in recovering their costs.

Thereafter, T-Mobile proposes a gradual glide path under which all remaining ICC rates of the smaller ILECs and their competitors would be reduced to bill-and-keep over five years after their initial rate transition. The move to bill-and-keep would rid the intercarrier compensation system of the inefficiencies and arbitrage opportunities that have plagued it and speed the transition to more efficient feature-rich IP networks, thereby spurring investment and innovation, benefiting consumers and enhancing the country's economic position.

DISCUSSION

I. THE PRINCIPLES AND GOALS OF THE HIGH-COST UNIVERSAL SERVICE SYSTEM SHOULD MATCH CONSUMERS' DEMAND FOR MOBILE BROADBAND DEPLOYMENT

T-Mobile generally supports the priorities and performance goals for a reformed high-cost USF system proposed in the NPRM[4] and offers the following additional suggestions.

A. Advancing The Deployment Of Mobile Networks Should Be A Specific Priority

No one seriously disputes the unique consumer benefits of mobile broadband or that advancing the deployment of mobile networks for both voice and broadband should

[4] NPRM at ¶ 80 (priorities), ¶ 482 (performance goals).

be an independent priority of the universal service system.[5] The legacy USF was designed to increase the availability of the last century's technology, which is rapidly losing relevance to American consumers and ignores their preference for mobility. Although the existing high-cost USF has been reasonably successful in expanding mobile voice service for consumers, the program has remained stagnant and does nothing to deliver to consumers the revolutionary benefits of mobile broadband. As Chairman Genachowski has recognized: "It's all about mobile. . . . No sector of the communications industry holds greater potential to enhance America's economic competitiveness, spur job creation, and improve the quality of our lives."[6]

Similarly, the National Broadband Plan ("NBP") correctly recognizes that "[m]obile broadband is the next great challenge and opportunity for the United States."[7] Mobile broadband provides unique consumer benefits, affording consumers and businesses with anytime, anywhere connectivity to a skyrocketing number of applications and services that provide security, inform, entertain, and boost productivity. Moreover, the Omnibus Broadband Initiative Technical paper (that supported the analysis in the NBP) confirmed that wireless would be the least-costly technology to serve 90 percent of

[5] *See id.* at ¶ 81.

[6] Julius Genachowski, Chairman, FCC, Prepared Remarks at International CTIA WIRELESS I.T. & Entertainment, *America's Mobile Broadband Future* 1-2 (Oct. 7, 2009), *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-293891A1.pdf

[7] FCC, *Connecting America: The National Broadband Plan* at 9 (Mar. 16, 2010) ("NBP").

the unserved households in the U.S.[8] The Commission should explicitly prioritize support for the expansion of mobile voice and broadband throughout the country.

B. Competitive and Technological Neutrality Should Remain Guiding Principles

The Commission's USF reform effort must, of course, be "guided in the first instance by the Act."[9] The Commission has adopted competitive and technological neutrality as universal service principles pursuant to section 254(b)(7) of the Communications Act of 1934 ("the Act"), properly concluding that "universal service support mechanisms and rules" should "neither unfairly advantage or disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another."[10] These guiding principles codify the Commission's obligation to "treat all market participants equally" which "is made necessary not only by the economic realities of competitive markets but also by statute."[11] Competitive and technological neutrality are even more important now, due to the explosive growth in wireless and mobile broadband services and their unique appeal to consumers.

Consistent with the NBP's guidance that eligibility for CAF support should be "company- and technology-agnostic,"[12] wireless providers must have the opportunity to

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[8] Omnibus Broadband Initiative, *The Broadband Availability Gap: OBI Technical Paper No. 1*, at 13, Exh. 1-J, *available at* http://download.broadband.gov/plan/the-broadband-availability-gap-obi-technical-paper-no-1.pdf.

[9] NPRM at ¶ 77.

[10] *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 8801 ¶ 47 (1997), *aff'd sub nom. Texas Office of Pub. Util. Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999).

[11] *Alenco Commc'ns., Inc. v. FCC*, 201 F.3d 608, 616 (5th Cir. 2001) ("*Alenco*") (citing 47 U.S.C. § 214(e)(1)).

[12] NBP at 145.

participate on a level playing field with fixed providers in filling America's broadband availability gap and mobility gap. A competitive environment is vital to ensuring that rural consumers receive the widely recognized benefits of competition. Thus, the Commission should act to ensure that its reforms in fact "will not unfairly advantage one provider over another or one technology over another"[13] or otherwise restrict consumer choice.

C. There Should Be Uniform Federal Requirements For Recipients Of Federal High-Cost Support

T-Mobile strongly agrees that "[p]roviders that benefit from public investment in their networks should be subject to clearly defined obligations associated with the use of such funding."[14] Recognizing that universal service is in the nature of a "public-private partnership,"[15] T-Mobile agrees that funding recipients should be subject to reasonable public interest obligations. The Commission should use this opportunity to harmonize ETC obligations through a clear set of federal requirements. Thus, for example, T-Mobile supports a simplified definition of "voice telephony service" for existing supported services.[16]

Precisely because clearly articulated federal standards are essential, the NPRM's proposal that "recipients continue to be subject to any applicable baseline state or federal requirements for the provision of voice service by ETCs"[17] is a step in the wrong direction. Regulatory obligations should not be imposed on providers in a competitive marketplace absent a showing that they are justified. Many existing requirements for local telephone service were imposed on

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[13] NPRM at ¶ 82.

[14] *Id.* at ¶ 90.

[15] *Id.*

[16] *See id.* at ¶¶ 95-97.

[17] *Id.* at ¶ 100.

ILECs during the monopoly era, and make no sense in the competitive mass market in which telephony is sold today.

In particular, COLR obligations should not be imported into the federal ETC rules. State COLR obligations are often vague or difficult to identify, vary from state to state, and are not well-tailored to the achievement of federal USF goals.[18] It is also unclear whether they are effective, and such obligations may be largely illusory in any event, given the substantial line-extension charges often applied to new ILEC customers in remote locations. Furthermore, because all ETCs have a statutory obligation under section 214(e) to respond to reasonable requests for service, there is no need to impose state COLR obligations on federal USF recipients.[19]

T-Mobile also supports the proposal to characterize broadband service without reference to any particular technology for purposes of support.[20] As the Commission notes, "speed is only one measure of broadband performance:"[21]

> [T]he deployment of mobile data networks will be essential to achieve the goal of making broadband connectivity available everywhere in the United States. We . . . seek to foster competition and the development of mobile data services with seamless and ubiquitous coverage. Ubiquitous coverage will enhance the unique social and economic benefits that mobile

[18] *See id.* at ¶ 91, n.157 (observing that "COLR obligations derive from state statutes, state regulations, certificates of public convenience and necessity, and administrative practice").

[19] *See* 47 C.F.R. § 54.202(a)(1)(i) (requiring any common carrier in its ETC application to "[c]ommit to provide service throughout its proposed designated service area to all customers making a reasonable request for service").

[20] *See* NPRM at ¶ 104.

[21] *Id.* at ¶ 105.

> service provides by enabling consumers to access information wherever they are. . . .[22]

The speed of mobile networks may vary at different points in time, as the capacity per user is largely dependent upon the number of other users in a given sector, as well as other factors.[23] Therefore, and as required by statute, the Commission should define "broadband" for USF purposes in a competitively neutral way that does not explicitly or implicitly discount the inherent characteristics, value, and benefits of different network platforms.

D. USF Reform Must Ensure Fiscal Responsibility

Consistent with its proposal to "limit the contribution burden on households,"[24] the Commission should ensure that USF reform is undertaken in a fiscally responsible way. Consumers bear the costs of universal service, and the USF (including the CAF) should be no larger than necessary to achieve its goals. No class of providers should receive preferential treatment in the phase-out of legacy high-cost support, nor in the allocation of CAF support. Any such preference would result in a fund that is larger than the current federal high-cost USF (as well as violate the principles of competitive and technological neutrality).

II. NEAR-TERM REFORMS MUST ENCOURAGE EFFICIENCY AND TECHNOLOGICAL NEUTRALITY

A. The Proposals To Reform ILEC Support Are A Good Start, But Do Not Go Far Enough

It is critical that the Commission begin the reform process by "eliminat[ing] waste and inefficiency, improv[ing] incentives for rational investment and operation by companies

[22] *Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services*, 25 FCC Rcd 4181, 4182-83 ¶ 3 (2010).

[23] *See* NPRM at ¶ 117. Other relevant factors include the customer's device, weather, and topography.

[24] *Id.* at ¶ 80.

operating in rural areas, and set[ting] rate of return companies on the path to incentive regulation."[25] The NBP and the Commission rightly note that "'rate of return does not provide sufficient incentives for broad innovations in the way firms do business.'"[26] In addition to hindering efficiency and innovation, ROR regulation frustrates competition, which is why the NBP recommends that "the FCC should require rate-of-return carriers to move to incentive regulation."[27]

Disappointingly, the NPRM fails to follow through on this recommendation. T-Mobile urges the Commission to adopt a concrete transition plan to eliminate ROR regulation over a reasonable period of time, such as five years. If, however, the Commission chooses not to eliminate ROR regulation, it should, at the very least, adopt the proposals in the NPRM to introduce "elements" of incentive-based regulation to ROR carriers.[28] These proposals are better than no reform at all and would serve as a good first step in the transition of ROR regulation to incentive regulation. They would place certain limitations on existing high-cost support programs, phase out others, and create incentives for rational consolidation of service territories.

The Commission's proposal to eliminate local switching support is long overdue, as the USF should not encourage carriers to retain inefficient circuit-switched technology and thwart the migration to an IP-based environment.[29] The proposal to modify high-cost loop support and

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[25] *Id.* at ¶ 157.

[26] NBP at 147, quoting *Policy and Rules Concerning Rates for Dominant Carriers*, Second Report and Order, 5 FCC Rcd 6786, 6790 ¶ 32 (1990), *aff'd Nat'l Rural Telecom Ass'n v. FCC*, 988 F.2d 174 (D.C. Cir. 1993).

[27] NBP at 147.

[28] NPRM at ¶ 28.

[29] *Id.* at ¶¶ 186-193.

eliminate safety net additive support should be adopted because the current subsidy structure creates perverse incentives for carriers to remain inefficiently small.[30] In a similar vein, barriers to ILEC consolidation should be eliminated by streamlining the study area waiver process and revising the "parent trap" rule as proposed.[31] Over the last decade, the competitive wireless industry has engaged in rational consolidation to ensure the efficient delivery of services in a capital-intensive industry. The USF should not inhibit the same rational market process in the wireline space; doing so creates inefficiencies and consumer costs.

T-Mobile also supports the transitioning of Interstate Access Support ("IAS") to the CAF,[32] so long as it is undertaken in a competitively neutral manner, again as required by statute.[33] Because the per-line IAS received by ETCs effectively has been reduced by the nationwide IAS and interim CETC caps, any phase-out of IAS should begin with the reduction of ILEC per-line IAS to the per-line level of IAS received by the CETCs in the same state.[34]

In the *CETC Cap Order*, the Commission effectively eliminated the identical support rule when it capped *for CETCs only* the high cost support available in each state.[35] Because of this

[30] *Id.* at ¶¶ 175-185.

[31] *Id.* ¶¶ 216-227.

[32] *Id.* ¶¶ 228-240.

[33] *See Alenco*, 201 F.3d at 616.

[34] In any state where per-line CETC IAS has not been reduced, ILEC and CETC per-line IAS will already be the same, requiring no further ILEC reduction prior to phasing out IAS to all ETCs in the state.

[35] *High-Cost Universal Service Support*, 23 FCC Rcd 8834 (2008) ("*CETC Cap Order*").

cap, together with the already existing nationwide cap on IAS,[36] CETC support in each state is a fraction of ILEC support. This favoritism for ILEC IAS continues, despite the growing demand for wireless service.[37] Therefore, in keeping with the guiding principle of competitive neutrality and to avoid deterring much-needed wireless network expansion, any phase-out of IAS should begin with the reduction of ILEC support to a level equitable with the support received by CETCs. Once all ETCs are on an equal footing, IAS should then be phased out consistent with the ICC transition, so that price cap ILECs and CETCs receiving IAS will have sufficient time to adjust to the transition.

Other steps also are required to complete the move to incentive-based regulation. These reforms could include a re-examination of the current 11.25 percent interest rate of return and the implementation of a "more rigorous" process to determine whether ILEC investments are used and useful.[38] The Commission should make a firm commitment to adopt these measures as part of its *near*-term reform package. There is simply no reason for all ratepayers to pay for above-market returns unrelated to USF deployment objectives for a small class of companies.

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[36] *Access Charge Reform*, 15 FCC Rcd 12962, 13046-49 ¶¶ 201-05 (2000) (establishing $650 million IAS fund), *aff'd in part, rev'd in part and remanded in part, Texas Office of Pub. Util. Counsel v. FCC*, 265 F.3d 313 (5th Cir. 2001).

[37] CETC IAS is capped nationwide and results in CETCs receiving a fraction of the support of the ILECs. IAS is then reduced again in the calculation of the CETC cap. If the CETC support in any given state exceeds the baseline state cap amount, support is reduced proportionally among all CETCs based on market share. *CETC Cap Order*, 23 FCC Rcd at 8846 ¶¶ 27-28. As of the second quarter of 2011, CETCs in all states are subject to a reduction in IAS support, receiving just $.559 for every dollar in IAS support that the ILEC receives. *See* Universal Service Administrative Company, *Federal Universal Service Support Mechanisms Fund Size Projections for the Second Quarter 2011*, Appendix HC01, *available at* http://www.usac.org/about/governance/fcc-filings/2011/Q2/HC01-%20High%20Cost%20Support%20With%20Capped%20CETC%20Support%20Projected%20by%20State%20by%20Study%20Area%20-%202Q2011.xls. Thirty four states and territories are experiencing reductions in all mechanisms of high cost support as a result of the CETC cap.

[38] NPRM at ¶ 32.

Finally, the Commission's proposal to establish a limit on total per-line high-cost support is commendable,[39] but the proposed $3,000 per line ceiling is too high. A better threshold would be the cost of wireless service at the relevant location, as determined by the NBP cost model or some other reasonable, objective measure. The inclusion of wireless service in any cost model will help control the size and burden of the fund, recognizing that wireless service is often the least-cost, most-efficient technology in high-cost areas.

B. Existing CETC Support Should Be Phased Out In A Prudent And Technology-Neutral Manner

T-Mobile generally agrees with the Commission's proposal to replace legacy CETC support with explicit support for mobility and broadband in the CAF and Mobility Fund.[40] The transition plan must not withdraw existing support prematurely, however. For the vast majority of American consumers, losing mobile service would have a significant negative impact. For this reason, the Commission should not move support out of existing CETC mechanisms until the first phases of the CAF and the Mobility Fund are established. Once this occurs, the timeline for phasing out CETC support should mirror the timeline for reductions in ILEC support. Further, once legacy CETC support begins to be phased out, it should be redirected prudently to ensure the continued availability of mobile services, both voice and broadband. The Commission should be clear that these funds will be redirected to the CAF and dedicated solely to mobility and broadband – an area of urgent need given the utility of, and demand for, mobile services. T-Mobile has consistently opposed the use of foregone CETC support to fund inefficient revenue replacement for ILECs.

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[39] *Id.* at ¶¶ 208-215.

[40] *See id.* at ¶¶ 241-260.

C. The Near-Term CAF Should Support Mobility And Broadband

The NPRM proposes a first phase CAF that would expand broadband to as many unserved households as possible through a reverse auction mechanism. T-Mobile believes that a preferable approach is to have the Commission adopt several pilot programs to measure which approach, or perhaps combination of approaches, delivers the widest broadband coverage at the least cost. In developing the mechanisms to be trialed, T-Mobile believes that it is particularly important that the Commission make support available on a competitively neutral basis to broadband providers using all technology platforms.

T-Mobile supports the proposal to award broadband funding in two phases (2012 and 2014), with the qualification that the first phase be used as the pilot for testing different support mechanisms and the second phase be used to roll out the support mechanism that is found to be most effective in the first phase.[41] Providing funding at the suggested intervals will not only permit the Commission to incorporate information about changes in the marketplace, but also will provide the Commission with valuable insights on distributional processes.

T-Mobile agrees that 768 kbps is an acceptable minimum download speed for the first-phase CAF.[42] The public interest obligations for near-term CAF recipients should conform to this speed requirement.[43] A broadband speed public interest standard must balance consumers' need and desire for mobility with broadband capacity. It is therefore crucial that the Commission

[41] *Id.* at ¶¶ 274-280.

[42] *Id.* at ¶¶ 267, 286.

[43] *Compare* NPRM at ¶ 311 (proposing a public interest requirement on near-term CAF recipients of deploying networks capable of at least 4 Mbps downstream and 1 Mbps upstream, actual) *with id.* at ¶¶ 267, 286 (proposing to make near-term CAF support available to providers offering at least 768 kbps service).

properly weigh consumers' need for mobility and not establish a public interest speed requirement that undermines mobile broadband availability in rural areas.

In defining unserved areas, the Commission should adopt its proposal to identify areas eligible for support at the Census Block level, while giving bidders the flexibility to define the areas they intend to serve on an aggregated basis.[44] Census blocks are a competitively neutral measuring unit and are small enough to pinpoint locations where support is needed. Permitting the aggregation of census blocks will ensure that a given geographic area is large enough to draw and sustain a viable bid.

In terms of determining the number of unserved units in each census block, the Commission's proposal to limit support to "unserved housing units" is too narrow.[45] Instead, the CAF should also account for other areas in which people travel and work and rely on broadband services. Thus, uninhabited road miles, community anchor institutions, and National Parks and other recreation areas should be included in calculating the number of units in a tract for purposes of comparing bids.

If properly structured, the first-phase CAF can be a valuable means to jump-start the provision of broadband and mobility services to customers who currently lack such service.

III. THE LONG-TERM CAF SHOULD PROVIDE EFFICIENT SUPPORT FOR MOBILE AND BROADBAND SERVICES

The Commission has reserved the right to comprehensively assess the outcomes of its near-term proposals and correct its course after three years, so its long-term vision for the CAF

[44] *Id.* at ¶ 293.

[45] *Id.* at ¶ 295.

is, by implication, tentative.[46] However the long-term CAF is structured, it must provide explicit support for mobile networks.[47] As T-Mobile and others have argued, the Commission's proposed Mobility Fund is not intended to provide crucial ongoing support for ubiquitous mobile broadband networks and is likely inadequate even for its limited intended purpose of providing necessary start-up support.[48] The long-term CAF should therefore be structured to provide sufficient support for capital and operating expenses of mobile networks to enable rural customers to have access to comparable services at comparable rates.[49]

There is no basis to provide blatant favoritism to ILECs through a "right of first refusal" for broadband and voice support through the long-term CAF.[50] By the time the CAF is implemented, all providers (and their investors) will have had time to adjust their business plans to the new paradigm. In the long run, support should be provided by the most efficient carrier.

Finally, to the extent that the Commission opts against moving all ILECs to incentive-based regulation in the near-term, any remaining elements of ROR regulation should sunset after the first-phase transition period is over.[51] All long-term CAF support should be based on the mechanism that the Commission finds through the pilot programs to be the most efficient at delivering on mobility services to consumers.

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[46] *Id.* at ¶ 29.

[47] *See id.* at ¶ 403.

[48] *See* Comments of T-Mobile USA, Inc., at 1-2, 4-6, WT Docket No. 10-208 (filed Dec. 16, 2010).

[49] 47 U.S.C. § 254(b)(3); NPRM at ¶¶ 80, 486.

[50] NPRM at ¶¶ 431-447.

[51] *See id.* at ¶ 449.

IV. THE COMMISSION SHOULD ESTABLISH MINIMUM CORE INTERCONNECTION RULES FOR IP TRAFFIC THAT FOSTER BROADBAND DEPLOYMENT

A. The Existing Circuit-Switched PSTN Is Inherently Inefficient And Hinders Broadband Deployment

Competitive carriers are rapidly transitioning to IP networks on their own. Wireless carriers use packet-based technology at thousands of cell sites and connect with each other and with other competitive carriers using packet-based interconnections. The Commission's most current data shows that, as of the middle of last year, more than 28.1 percent of all consumers subscribing to wireline telephone services were using interconnected packet-based services – and this figure certainly will increase in the future.[52] Wireless services play an increasingly important role in broadband service growth. In fact, almost all of the recent increase in residential Internet access service has been accounted for by mobile wireless subscribers with data plans, which grew more than 27 percent in just the first half of 2010.[53]

The current PSTN network is inefficient and imposes sizable costs that could be avoided if packet-based technologies were used more extensively and if packetized voice calls did not have to be delivered to thousands of legacy circuit switch locations installed over the past century.[54] LEC requirements that packet-based traffic be converted into TDM further deprive consumers of the full benefits that packet-based technologies can offer. This arrangement also stifles investment in and use of 21st century technologies, including the deployment and use of broadband networks. Thus, the transformation of the PSTN into an IP network will be stymied

[52] *See* Industry Analysis and Technology Div., Wireline Competition Bur., FCC, *Local Telephone Competition: Status as of June 30, 2010,* at 5, Figure 4 (Mar. 2011). This data does not include non-interconnected packetized voice services such as those offered by Skype. *See id.* at 1 n.3.

[53] *Id.* at 10, 15, Table 3.

[54] *See* NPRM at ¶ 527.

in the absence of Commission implementation of an efficient IP interconnection regime in tandem with ICC rate reform.

B. Managing The Transition To An Efficient All-IP Network Must Be Part Of ICC Reform

In order to foster engineer-designed packet networks, the Commission should adopt IP interconnection rules addressing the structure, terms and conditions of IP traffic exchanges. It is widely acknowledged that implementing an institutional framework for broadband traffic exchange must go hand-in-hand with reform of the traditional voice-based ICC regime.[55] IP interconnection rules should reflect the main differences between the existing legacy PSTN and the IP network of the future:

- **Efficiency** – there are hundreds of thousands of interconnection points between and among the hundreds of ILECs and competitive carriers and other service providers in today's PSTN, whereas national all-IP broadband networks should have no more than 30 interconnection points nationwide. There are 31 Internet exchange points in the United States today.[56] Most tier 1 Internet providers have 10 or fewer interconnections. Today's maze of overlapping PSTN interconnection points adds tremendous costs.

- **Competitive Neutrality** – the existing interconnection regime locks in ILEC control over the terms and rates governing interconnection:

    - Competitive carriers must pay transport costs to move traffic to the ILEC switches. Although Section 251(c)(2) of the Act permits interconnection with an ILEC at any technically feasible point, ILECs routinely require traffic to be brought to the ILEC tandem or end office, thereby forcing interconnecting carriers to pay the ILEC for the benefit of connecting to multiple ILEC switches. One carrier has noted that an ILEC has offered IP interconnection to CLECs but requires it in each local exchange where a CLEC wishes to

[55] *See, e.g.,* Letter from Richard S. Whitt, GOOGLE INC., to Marlene H. Dortch, Secretary, FCC, CC Dkt. No. 01-92 (Feb. 1, 2011).

[56] *See* Data Center Map, Internet Exchange Points, *available at* http://www.datacentermap.com/ixps.html.

exchange traffic.[57] This insistence on conformance with legacy architecture underscores the need for efficient IP interconnection rules.

- ILECs require other carriers, in effect, to pay for the ILECs' internal transport by forcing direct interconnections at end offices whenever the ILEC "runs out of capacity," *i.e.*, whenever the traffic volume from another carrier exceeds DS1 capacity.

- Competitive carriers typically must purchase the additional transport required to meet ILEC interconnection requirements from the ILEC itself.[58]

- With IP networks, no carrier would control any interconnection points or be able to offload its transport costs onto other carriers. All carriers would have to transport all traffic to or from a few neutral interconnection locations (or pursuant to contract).

- **Network Reliability and Redundancy** – if an ILEC tandem or end office goes down, it can affect multiple interconnected carriers because they have no alternative means of routing interconnected traffic. If an IP interconnection point goes down, traffic can be rerouted through other interconnection points. The single points of failure in the PSTN are public safety and national security threats due to the lack of redundancy. The Commission must ensure that the IP network is robustly designed from a homeland security perspective.

In designing the requirements for an all-IP network, the Commission should draw from Internet engineering principles and from PSTN transparency principles in order to ensure the most efficient, pro-competitive regime.

[57] Letter from Tamar E. Finn, Counsel to PAETEC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 07-135, at 2 (Sept. 24, 2010)

[58] The "Missoula Plan" would have codified these practices in Commission regulations. *See* The Missoula Plan for Intercarrier Compensation Reform at III.A-B (requiring interconnecting carriers to deliver local traffic to every end office, point of presence, and trunking media gateway designated as a network "Edge" in each LATA served by a rural ILEC ("RLEC")) (July 18, 2006), attached to Letter from Tony Clark, Commissioner and Chair, NARUC Committee on Telecommunications, *et al.*, to the Hon. Kevin Martin, Chairman, FCC, CC Docket No. 01-92 (July 24, 2006). In situations where an interconnecting carrier must deliver traffic to an RLECs' end office, there typically would be no way to meet that obligation within the RLEC's service territory other than by using the RLEC's transport facilities. *See id.* at II.E (setting forth compensation rules for transporting traffic to terminating carrier's edge).

C. The Commission Should Enlist The Existing Technical Advisory Council To Provide Guidance In Structuring An IP Interconnection Regime

In order to develop an IP interconnection structure, the Commission, acting under the Federal Advisory Committee Act ("FACA"),[59] should enlist the help of the existing TAC established last October to provide guidance as to the most efficient locations and technical standards for VoIP Exchange Points ("VEPs").[60] The location and standards for VEPs appear to fall within "the evolution of broadband networks," an area within the scope of the TAC's announced advisory role.[61] The Commission also could direct the TAC to establish a subcommittee to develop these IP standards. The IP standards subcommittee could then submit its recommendations to the TAC, which would review them and then provide its recommendations to the Commission.[62] The TAC should be able to issue its recommendations to the Commission within several months of the Commission's request for guidance. In turn, the Commission should be able to release an order based on the TAC's recommendations requiring the largest carriers to connect at the designated VEPs within one year of the TAC's recommendations. All other carriers can be transitioned to the new IP interconnection regime over a longer period of time.

During the transition to the new IP interconnection regime, parties should be free to agree to alternative interconnection arrangements, but the Commission's IP interconnection regime

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[59] 5 U.S.C. App. 2 §§ 1-16.

[60] FCC News Release, *FCC Announces Formation of the Technological Advisory Council* (Oct. 21, 2010).

[61] *Id.* at 1.

[62] The subcommittee would not be subject to FACA as long as it reports only to the TAC and not to the Commission. *See* Section 102-3.35 of the U.S. General Services Administration's Federal Management Regulations, 41 C.F.R. § 102-3.35.

should apply to all carriers in the absence of private agreements. Similarly to "peering" arrangements between tier one Internet providers today, all voice and data traffic exchanged via the VEPs should be settlement free,[63] except for whatever fee interconnected carriers should pay for deployment and maintenance of each VEP, consistent with the TAC's recommendations. The originating service provider would be responsible for transporting its packetized voice traffic to the appropriate VEP serving the called party, and the terminating service provider would be responsible for the costs of transporting traffic from the VEP to its customer.

As discussed below, LECs no longer incur any traffic sensitive costs in terminating calls, and VoIP servers are even more efficient than modern circuit switches. Combined with an interconnection regime employing a limited number of VEPs – versus the thousands of costly interconnection points in today's PSTN – traffic would be exchanged in a modern broadband network at zero or near zero incremental costs.[64]

D. The Commission Has Jurisdiction To Impose IP Interconnection Requirements

The Commission has jurisdiction to impose an efficient regime for "IP-to-IP interconnection arrangements for the exchange of VoIP traffic" under its "existing legal . . . interconnection framework[],"[65] irrespective of the ultimate classification of VoIP. Implementation of the proposed IP interconnection rules is well within the Commission's

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[63] *See* Michael Kende, FCC, *The Digital Handshake: Connecting Internet Backbones*, at 4-8, OPP Working Paper No. 32 (Sept. 2000) ("Digital Handshake").

[64] In any event, the Commission should not "replicate access charges on the Internet to subsidize 'basic' Internet access service (nor should [it])." Robert W. Quinn, Senior Vice-President – Federal Regulatory, AT&T, Prepared remarks delivered at FCC, ICC Workshop, Panel 3, "Developing a Recovery Mechanism" (Apr. 6, 2011), *available at* https://prodnet.www.neca.org/publicationsdocs/wwpdf/4611arvig.pdf.

[65] NPRM at ¶ 679.

ancillary authority under Section 201(b) of the Act because they are an integral part of the TDM rate transition set forth below. Regulation of the structure of VoIP interconnections thus would be "necessary to assure . . . reasonable [ICC] rates."[66]

Implementation of these IP interconnection requirements would facilitate the transformation of the circuit-switched legacy network into the efficient broadband network that is needed for today's communications services and would remove the PSTN bottlenecks at ILEC-prescribed interconnection points that generate incentives to impose above-cost ICC charges. An efficient IP interconnection structure thus would reinforce the pro-competitive effects of ICC reform and benefit consumers.[67]

V. LEGACY ICC RATES SHOULD BE REDUCED TO BILL-AND-KEEP AS EXPEDITIOUSLY AS POSSIBLE TO FACILITATE THE TRANSITION TO AN IP NETWORK

A. The ICC Regime Is Broken

The NPRM acknowledges the widespread consensus that the existing ICC system is "broken and needs to be fixed."[68] The NBP estimates that the ICC regime extracts, at a minimum, $14 billion annually from carriers,[69] but the actual amount is certainly much higher.

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[66] *See Computer and Communications Industry Ass'n v. FCC*, 693 F.2d 198, 213 (D.C. Cir. 1982), *cert denied sub nom. Louisiana Pub. Serv. Comm'n. v. FCC*, 461 U.S. 938 (1983) (upholding Commission's "exercise of ancillary jurisdiction over both enhanced services and CPE" as "necessary to assure [common carrier] wire communications services at reasonable rates").

[67] The IP interconnection rules could be enforced through more stringent ICC rate reductions for noncompliant carriers. For example, a carrier that did not accept all traffic at the specified VEPs could be required to reduce all ICC rates to $0.0007 per minute of use ("MOU"), or to bill-and-keep, immediately. These enforcement remedies would ensure that carriers did not exploit their control over common carrier TDM traffic termination points by delaying the deployment of the required IP interconnections.

[68] NPRM at ¶ 508.

[69] NBP at 142.

Extrapolating from T-Mobile's own interconnection costs, and assuming that other carriers' interconnection costs are similar, T-Mobile estimates that the actual number is approximately $25 billion per year. Wireless carriers like T-Mobile pay much of this to their competitors, with little or no relationship to the actual flow of traffic or the rapidly diminishing costs incurred in exchanging such traffic. Consumers bear the entire cost of these inequitable, inefficient tolls. Moreover, the $14 billion does not cover billions of dollars in the network inefficiencies discussed above resulting from forced interconnection duplication, operational costs associated with managing the ICC system (*e.g.*, staffing to handle billing and collections), and ongoing litigation, all caused by the absence of an economically sound, pro-competitive, technologically neutral set of traffic exchange rules.

The burden of the current ICC is also greater on T-Mobile and other wireless carriers – which pay, but do not receive, access charges. Because the current USF and ICC regimes both benefit ILECs more than wireless carriers, T-Mobile and its customers spend enormous sums subsidizing T-Mobile's competitors. These asymmetric costs thus place T-Mobile and other similarly situated wireless carriers at a severe competitive disadvantage, underscoring the need for reform.

T-Mobile agrees with the NPRM's identification of four fundamental problems with the current ICC system: (1) outdated concepts and per-minute rate structures; (2) rates that vary based on the type of provider and call origin; (3) rates set above incremental costs, promoting the retention of old voice technology and creating opportunities for regulatory arbitrage; and (4)

additional pressure from declining LEC compensable minutes due to technological changes.[70] The current ICC system simply is not sustainable in the emerging all-IP world.[71]

B. Reduction Of ICC Rates To Bill-And-Keep Would Advance The Public Interest

Combined with the IP interconnection regime proposed above, a properly designed ICC transition plan would harmonize the developing convergent telecommunications marketplace to the benefit of consumers. Consistent with the NPRM's stated goals for ICC reform, a successful plan must address the disparate regulations that apply to different providers and types of traffic, recognize that both parties share the benefits of a call and should share the cost, provide correct price signals to consumers, and reflect the nature of IP networks.[72] Eventual reduction of all ICC rates to bill-and-keep would best meet all of these goals.[73] Wireless carriers essentially operate now under a bill-and-keep regime,[74] and bill-and-keep is, in large part, the end-point of this proposal.

Both this Commission and state commissions have recognized that, in deploying modern switching facilities, LECs no longer incur any traffic sensitive costs with end office switching.[75]

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[70] NPRM at ¶¶ 494-508.

[71] *Id.* at ¶¶ 505-06.

[72] *Id.* at ¶¶ 524-27.

[73] *See id.* at ¶ 530.

[74] *Id.*

[75] *See Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption*, 18 FCC Rcd 17722, 17903-04 ¶¶ 463-65 (2003). *See also id.* at 17877 ¶ 391, 17911-13 ¶¶ 484-89 (LECs using digital circuit switches do not incur any traffic sensitive costs because "modern switches typically have large amounts of excess central processor and memory capacity") ("*Virginia Arbitration Order*"); *Petition for Arbitration of Unresolved Issues in a Section 251(b)(5) Agreement with T-Mobile USA*, Case No. TO-2006-0147, 2006 Mo. PSC LEXIS 342 *9 (Mo. PSC Mar. 23, 2006) ("switching costs are no longer traffic sensitive");

Data gathered by parties in the *ICC Reform* proceeding showed that, as early as 2006, some rates for unbundled local switching were as low as $0.00004 per minute.[76] With modern switching technology, "the additional costs for terminating a telephone call [are] approximately zero," requiring a reciprocal compensation rate of zero (*i.e.*, bill-and-keep).[77] Moreover, the same network functions are performed terminating a local or a long distance call.[78] A "'terminating minute is a terminating minute' with regard to an end office switch."[79] Any termination rate above zero (*i.e.*, bill-and-keep) thus cannot be justified.

Bill-and-keep would create many consumer and public interest benefits. It would:

- facilitate the deployment and use of IP technologies;
- eliminate the related terminating access monopoly pricing issue;
- reinforce the IP interconnection regime proposed above by eliminating incentives to avoid or violate it;
- eliminate the cost burdens that ICC charges impose on competitors;

Hamilton County Telephone Co-op, et seq. Petitions for Arbitration to Establish Terms and Conditions with Verizon Wireless, Docket No. 05-0644, 2006 Ill. PUC LEXIS 5 at *94-95 (Ill. Comm. Comm'n. Jan. 25, 2006) (finding that rural ILEC switches have no traffic sensitive costs and that as a result, their rate for termination should be set at zero); *Investigation into Reciprocal Compensation Rates*, 2003 Minn. PUC LEXIS 99 at *6 (Minn. PUC Sept. 24, 2003) (Minnesota Public Utilities Commission found, in setting a reciprocal compensation rate of zero, that "usage-based pricing of local switching . . . lacked adequate evidentiary support . . . and carried the risk of anti-competitive impacts"), *recon. denied*, 2003 Minn. PUC LEXIS 144 (Minn. PUC Dec. 24, 2003), *vacated sub nom. Ace Tel. Ass'n v. Koppendrayer*, 2004 U.S. Dist. LEXIS 24632 (D. Minn. Dec. 6, 2004), *rev'd Ace Tel. Ass'n v. Koppendrayer*, 432 F.3d 876, 881 (8th Cir. 2005) ("*Ace*").

[76] Chairman's Draft Proposal, ¶ 254, attached as App. A to *High-Cost Universal Service Support*, Further Notice of Proposed Rulemaking, 24 FCC Rcd 6475, 6610 (2008) ("*ICC Reform*").

[77] *Ace*, 432 F.3d at 880.

[78] *See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499, 16012, ¶ 1033 (1996) (subsequent history omitted).

[79] *Virginia Arbitration Order*, 18 FCC Rcd at 17913 ¶ 489.

- allow much of the billions of dollars spent annually on ICC payments to be devoted to more productive uses, such as broadband deployment and other network improvements;[80]

- free up additional resources spent administering, billing, collecting and enforcing the current ICC regime and related interconnection requirements; and

- encourage long-term network investment by removing uncertainty.

A reduction of all ICC rates to bill-and-keep thus should be the ultimate goal of any meaningful reform program.

C. ICC Reform Should Start With The Largest ILECs And Their Competitors

While a bill-and-keep regime should be its ultimate goal, the Commission may make more progress in the short term by focusing on ICC reform for which some consensus has formed and addressing more difficult phases on a longer term basis. The first step of any meaningful ICC reform should address traffic exchanges involving the three largest ILECs or competitive carriers operating in their service areas. The three largest ILECs accounted for almost 90 percent of all ILEC access lines as of the end of 2008.[81] These ILECs and their competitors already have been forced by competitive pressures to reduce ICC rates and have taken other steps in anticipation of ICC reform. Each of the three largest ILECs either has submitted a three-year plan to transition all ICC rates to bill-and-keep or a low unified rate or supports such a transition.[82] The Commission should not delay reform for these largest ILECs

[80] NBP at 142.

[81] As of the end of 2008, AT&T, Verizon, Qwest and CenturyLink together served 88.3 percent of all ILEC access lines nationwide. *See* Industry Analysis and Technology Division, Wireline Competition Bureau, FCC, *Trends in Telephone Service*, at 7-7, Table 7.3 (Sept. 2010) ("*Trends*").

[82] *See* Letter from Melissa E. Newman, V.P. – Fed. Relations, Qwest, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 01-92 (Aug. 30, 2010), Attach., "Intercarrier Compensation Reform" at 5 (Aug. 27, 2010) (reduce all ICC termination rates to "zero or to a small uniform

just because much smaller ILECs, which account for a small percentage of the nation's ILEC access lines, oppose reform.[83]

The following ICC reductions, which could be coordinated with the annual access filings, would establish an appropriate glide path for the three largest ILECs and their competitors and provide enormous public benefit. The existing SLC caps on the largest ILECs should be eliminated in order to provide them maximum flexibility in recovering costs from their customers:

- **Year 1 – Unify all access rates:** By July 1, 2012, all ILEC and CLEC intrastate access charges would be capped at interstate rate levels;
- **Year 2 – Reduce access rates:** On July 1, 2013, all access charges would be reduced by 50 percent (from current interstate rate levels);
- **Year 3 – Exclusive use of ISP-bound rate:** On July 1, 2014, all traffic would be billed at the ISP-bound rate of $0.0007 per MOU;
- **Year 4 - Bill-and-keep:** On July 1, 2015, bill-and-keep would be used for all PSTN traffic in the largest ILEC service areas.

Traffic exchanged between a carrier subject to the above glide-path and one not covered should be compensated at the applicable rate to which the uncovered carrier is subject. For example, in the case of a call subject to interstate access charges, if the step-down governing the

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rate"); Letter from Susanne Guyer, Sr. V.P. – Fed. Reg. Affairs, Verizon, to Chairman Kevin Martin, *et al.*, FCC, at 4, CC Docket No. 01-92 (Sept. 12, 2008) (reduce all termination rates to $0.0007 per MOU); Letter from VON Coalition, AT&T, Verizon, *et al.*, to Chairman Kevin Martin, *et al.*, FCC, at 2, WC Docket No. 04-36 (Aug. 6, 2008) (reduce all termination rates to $0.0007 per MOU); Comments of CenturyLink on NBP Public Notice #19, at 40, GN Docket No. 09-51 (Dec. 7, 2009) (reduce all ICC termination rates to $0.0065 per MOU within three years and to $0.0055 per MOU within five years).

[83] As noted in prepared remarks on behalf of Sprint Nextel at the recent Commission ICC reform workshop, "[t]he 1996 Act mandates recovery of the cost of terminating traffic originated by another carrier through either bill-and-keep or incremental cost. It's been 15 years and it is well past the time for those basic premises to be accomplished." Sprint Nextel Corp., "Developing a Recovery Mechanism Panel," FCC (Apr. 6, 2011), *available at* https://prodnet.www.neca.org/publicationsdocs/wwpdf/4611arvig.pdf.

largest ILEC service areas is a 50 percent reduction (in Year 2), while the other carrier is not yet subject to any interstate access reduction, both carriers would charge their full interstate access rates to each other. Competitive carriers operating in service areas of multiple ILECs would be subject to the reductions applicable to the relevant ILEC in each service area. Since wireless carriers already exchange traffic with each other on a bill-and-keep basis, and most large ILECs exchange traffic among their affiliates on a bill-and-keep basis, with the adoption of the proposed glide path, ICC would be eliminated for the vast bulk of PSTN traffic by the end of Year 4. Reducing ICC rates to bill-and-keep for almost all PSTN traffic will invigorate competition, reduce costs and facilitate the transition to an all-IP network.

D. Access Rates For All Other ILECs And Their Competitors Should Be Unified At The Interstate Level

A more modest intrastate/interstate access unification transition could be applied to all other ILECs and the competitive carriers operating in their service areas, with the option of a further reduction, if necessary. Because intrastate access rates are so egregiously above cost, reducing them to interstate access levels would go a long way toward reforming rural ILEC ("RLEC") ICC rates. As Chairman Genachowski noted: "it can cost 10 times more to call a friend a few towns over than to call someone on the other side of the world,"[84] and that difference is caused almost entirely by disparate, illogical access rate structures. These smaller ILECs serve less than 12 percent of the nation's ILEC access lines. Thus, a less stringent or longer transition for them would not impose significant inefficiencies on the overall telecommunications market.

[84] Julius Genachowski, Chairman, FCC, Statement Regarding Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, *Connect America Fund*, WC Docket No. 10-90, at 2 (Feb. 9, 2011).

There is widespread consensus that, even for small RLECs, intrastate access rates should be brought down to interstate access rates, making that phase of ICC reform achievable in the near term. T-Mobile proposes two slightly different glide-paths to unified access rates for smaller ILECs and their competitors: a three-year plan for mid-size ILECs and their competitors; and a four-year plan for all other ILECs and their competitors. "Mid-size" for this purpose refers to the next seven largest ILECs after the four largest ILECs. Each mid-size ILEC serves between 400,000 and three million access lines, and together, they served a total of 7.23 percent of all ILEC access lines as of the end of 2008.[85] All other 1000-plus ILECs, those with fewer than 400,000 access lines, served a total of 4.48 percent of the nation's ILEC access lines as of the end of 2008.[86] The less stringent transition for these ILECs, especially the smallest RLECs, acknowledges the economic realities of RLEC business plans and their greater reliance on ICC and USF support.

Mid-Size ILECs And Their Competitors: T-Mobile proposes the following three-year ICC transition plan for mid-size ILECs and their competitors:

- **Year 1:** On July 1, 2012, these LECs would reduce their intrastate access rates by one-third of the difference between their current intrastate and interstate access rates, and the interstate rates would be frozen during the transition;
- **Year 2:** On July 1, 2013, these LECs would reduce their intrastate access rates another one-third of the difference;
- **Year 3:** On July 1, 2014, all access rates would be unified at current interstate levels.

[85] *See Trends* at Table 7.3. Those seven are Windstream Corp., Frontier Communications Corp. (which now includes Citizens Communications Co., listed separately in Table 7.3), FairPoint Communications, Inc., America Movil, Cincinnati Bell Inc., Telephone and Data Systems, Inc., and Hawaiian Telecom Communications, Inc. *Id.*

[86] *Id.*

All Other ILECs And Their Competitors: T-Mobile proposes the following four-year plan for all other ILECs and their competitors:

- **Year 1:** On July 1, 2012, these LECs would reduce their intrastate access rates by 25 percent of the difference between their current intrastate and interstate access rates, and the interstate rates would be frozen during the transition;
- **Year 2:** On July 1, 2013, these LECs would reduce their intrastate access rates another 25 percent of the difference;
- **Year 3:** On July 1, 2014, these LECs would reduce their intrastate access rates another 25 percent of the difference;
- **Year 4:** On July 1, 2015, all access rates would be unified at current interstate levels.

OPASTCO, which represents 520 of the smallest RLECs, has proposed "reduc[ing] rural ILECs' ICC rates down to zero over a seven-year transition period."[87] The above proposal to unify small ILEC access rates at the interstate level within three or four years would be consistent with the OPASTCO proposal. As in the case of the largest ILECs, all other ILECs' SLC caps should be lifted to provide additional pricing flexibility. ROR ILECs also could petition state commissions to rebalance their retail and access service rates if necessary to adapt to reduced ICC revenues.

E. Once These Steps Are Taken, The Commission Can Determine What Additional Measures Are Necessary

Once the access rates of smaller ILECs and their competitors are unified at interstate levels, the Commission could then decide what other steps might be taken to reform smaller ILEC ICC rates. Even without any further reductions, however, the above plan would eliminate all but a small fraction of ICC payments for these carriers. If the Commission determined that further ICC reductions were required for these carriers, it could impose a glide path similar to the

[87] OPASTCO Comments – NBP Public Notice #19 at 23-24, GN Docket No. 09-51 (Dec. 7, 2009).

one imposed on the largest ILECs, but at a slower pace, starting at the end of the respective access rate unification transitions for each of the two groups of smaller ILECs set forth above:

- **Year Following Access Rate Unification – Reduce All Access Rates:** On July 1, 2015 for the mid-size ILECs and competitors, and July 1, 2016 for the small ILECs and competitors, all access rates would be reduced by one-third from current interstate rate levels;

- **2nd Year Following Access Rate Unification – Reduce All Access Rates:** On July 1, 2016 for the mid-size ILECs and competitors, and July 1, 2017 for the small ILECs and competitors, all access rates would be reduced by another one-third;

- **3rd Year Following Access Rate Unification – Exclusive Use of ISP-Bound Rate:** On July 1, 2017 for the mid-size ILECs and competitors, and July 1, 2018 for the small ILECs and competitors, all access rates and reciprocal compensation rates would be reduced to the ISP-bound rate of $0.0007 per MOU;

- **5th Year Following Access Rate Unification – Bill-and-keep:** On July 1, 2019 for the mid-size ILECs and competitors, and July 1, 2020 for the small ILECs and competitors, bill-and-keep would be used for all PSTN traffic universally.

The transition schedules proposed above would be default rules that could be superseded by voluntary arrangements between carriers. T-Mobile presents these transition plans to illustrate one approach to a reasonable, achievable ICC transition. It is critical, however, that ICC rates for most (*i.e.*, 90 percent or more) of the traffic that originates or terminates on the PSTN, including interconnected VoIP,[88] be reduced to bill-and-keep, and that access rates for the remainder of the traffic be greatly reduced and at least unified, over a reasonably short time period. ICC rate reductions meeting those criteria will remove most of the billions of dollars in deadweight loss that now hinders competition, burdens consumers and delays broadband deployment.

[88] T-Mobile addressed the ICC treatment of VoIP traffic in its comments filed in this proceeding on April 1. *See* Comments of T-Mobile USA, Inc., at 9-12, WC Docket No. 10-90 (Apr. 1, 2011).

CONCLUSION

T-Mobile urges the Commission to adopt USF and ICC reform plans and IP interconnection requirements consistent with these comments. Eliminating most ICC charges, steering the PSTN toward a more efficient IP interconnection structure, and reforming the high-cost program in the manner advocated in these comments will address the growing ICC and USF contribution burden on carriers and consumers, catalyze competition, stimulate broadband and other network investment, and facilitate the transition of the 20th Century PSTN into a modern, forward-looking all-IP network. T-Mobile looks forward to working with the Commission to remove the last regulatory obstacles to universal broadband service.

Respectfully submitted,

/s/ Kathleen O'Brien Ham

Kathleen O'Brien Ham
Dave Conn
Luisa L. Lancetti
Indra Sehdev Chalk

T-Mobile USA, Inc.
401 Ninth Street, NW
Washington, D.C. 20004
(202) 654-5900

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